

## REMARKS

In the foregoing amendments, claim 2 was amended. These amendments will be discussed below in conjunction with the rejection of the claims under 35 U.S.C. § 112, second paragraph. Claims 1-4 remain in the application for consideration by the examiner.

The Official action acknowledged receipt of the declaration filed November 20, 2003. However, the Official action stated that the declaration is not acceptable as a substitute for an English translation of the foreign priority document. An English translation of the priority document was submitted in order to remove U.S. patent No. 6,212,217 of Erie *et al.* (Erie) as a reference against applicant's claims. Since Erie is no longer cited against the claims, it appears that the submission of the English translation may now be moot. However, for the sake of completeness, applicant is attaching hereto a verified English translation of the foreign priority document (Japanese patent application No. 10652/1999, filed on January 18, 1999).

Claims 2 and 4 were rejected under 35 U.S.C. § 112, second paragraph. The Official action stated that the limitation in claim 2 of "making adjustment of the curvature of the wavelength selection element only by the adjustment means impossible" is confusing. In the foregoing amendments, applicant amended the last phrase in claim 2 to read as follows:

locking means for locking the adjustment means in an adjusted position so as to hold a curvature of the wavelength selection element constant against a mechanical shock applied to the optical resonator and ~~making~~ preventing adjustment of the curvature of the wavelength selection element ~~only~~ by the adjustment means ~~impossible~~ when locked by the locking means.

Applicant respectfully submits that amended claim 2 particularly points out and distinctly claims the subject matter regarded as the invention within the meaning of 35 U.S.C. § 112, second paragraph. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

Claims 1-4 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent No. 4,022,523 of Lindonen *et al.* (Lindonen). The Official action referred to figure 2 of Lindonen and identified items therein that allegedly correspond to those set forth in applicant's claims.

Applicant respectfully submits that the teachings of Lindonen do not anticipate the presently claimed invention within the meaning of 35 U.S.C § 102 for at least the following reasons. The Official action stated that locking screws 56, 57 of Lindonen (it appears that the reference numerals of the locking screws of Lindonen should be 57, 58) correspond to the locking means of the present invention. However, the locking means of the presently claimed invention serve to hold the curvature of the reflecting surface and to prevent the adjustment of the curvature of the reflecting surface. The teachings of Lindonen do not disclose or suggest a locking means having these capabilities.

In the mirror assembly of Lindonen, it is proposed that the curvature of the mirror is adjusted by the vernier assembly 37, and the angle of the mirror relative to the vertical direction is adjusted by the screw 52. Further, it is proposed that the mirror assembly is supported by means of the pin 53, so that the mirror assembly is rotatable in the horizontal direction about the pin 53. The locking screws 57, 58 prevent the rotation of the mirror assembly in the

horizontal direction, thereby to fix the rotation of the mirror assembly. For these reasons, a person skilled in the art would understand that the screws 57, 58 of Lindonen have nothing to do with the adjustment of the curvature of the mirror and, thus, cannot operate as a locking means a therefor in contrast to applicant's claims. In particular, screws 57, 58 do not hold the curvature of the reflecting surface, nor do they prevent the curvature adjustment of the reflecting surface. In Lindonen, the vernier assembly 37 functions to adjust the curvature of the mirror by action of screw structure. For example, by rotating the knob 40, the mirror 10 is pushed or pulled. There is no structure of fixing the screws within the teachings of Lindonen that corresponds to the presently claim locking means.

In other words, applicant respectfully submits that the teachings of Lindonen do not and cannot contemplate or suggest the locking means of the present claims. Applicant's claim 1 defines a locking means for locking the bending mechanism in an adjusted position so as to hold a curvature of the wavelength selection element constant against a mechanical shock applied to the optical resonator and making adjustments of the curvature of the wavelength selection element impossible when the bending mechanism is locked by the locking means. Claim 2 sets forth similar limitations. The teachings of Lindonen simply do not contemplate or suggest this structure.

Attention is directed to the discussion at column 4, lines 45-53, of Lindonen. As discussed therein, the base member section 34, as proposed by Lindonen, has oppositely positioned arcuately-configured slots 55 and 56 with

inner ridges, the surfaces of which are adapted for contact with heads of screws 57 and 58 such that when screws 57 and 58 are loosened, the entire base member may be pivoted in the horizontal plain defined by the surface of foundation 54 about pivot pin 53; and when the desired mirror position is attained, the screws 57 and 58 are tightened to lock the mirror in place. This structure proposed by Lindonen is concerned with locking the mirror in place. This structure is different than structure for locking the adjustment of the curvature of the wavelength selection element, as required in the present claims. In other words, even when the screws 57 and 58 are tightened to lock the mirror in place; within the teachings of Lindonen, the focal length of the mirror can be adjusted by turning vernier screw 40, the elevation of the mirror can be adjusted by turning screw 52, and the orientation of the light beam can be adjusted by the position of vertical support 31 relative to the base support member. Therefore, applicant respectfully submits that the teachings of Lindonen are not relevant to the structure of the presently claimed invention and cannot contemplate or suggest the same.

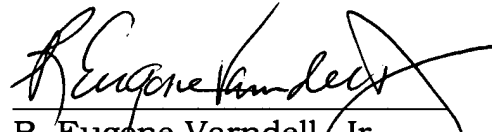
For the foregoing reasons, applicant respectfully submits that the teachings of Lindonen do not contemplate or suggest the presently claimed invention within the meaning of 35 U.S.C § 102 or 35 U.S.C § 103. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

The foregoing is believed to be a complete and proper response to the Official action mailed February 24, 2004. While it is believed that all the

claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 22-0256.

Respectfully submitted,  
VARNDELL & VARNDELL, PLLC

A handwritten signature in black ink, appearing to read "R. Eugene Varndell Jr.", written over a horizontal line.

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Attachment:

Verified English translation of Japanese patent application No. 10652/1999, filed on January 18, 1999.